

171-4 INSTITUTIONAL ARRANGEMENTS

4-1 INTRODUCTION

Responsibility for solid waste management in Rhode Island is divided among several agencies, principally the Solid Waste Management Corporation and the Department of Environmental Management. Municipalities also play a role, as do several other state agencies.

The current arrangement for solid waste management in Rhode Island is the result of major changes over the last 20 years that expanded the role of government and centralized functions at the state level (see Table 171-4 (1)).

This Part summarizes the current system arrangements and their evolution, then outlines the responsibilities of key agencies. The major government responsibilities for solid waste management in Rhode Island are regulation, enforcement, planning, programs, facility siting; and the provision of facilities, financing, technical assistance, and public education. While the division of responsibility for the development of facilities and regulation is relatively clear-cut, institutional arrangements for other functions have become increasingly complex and important as state government expands its waste management activities to include recycling and source reduction and adopts a multi-agency approach.

4-2 FEDERAL ROLE IN STATE SOLID WASTE MANAGEMENT

The major influence of the federal government in state solid waste management is on regulatory programs. The federal government also provides policy and information documents such as the United States Environmental Protection Agency's Agenda for Action (1989) and the Office of Technology Assessment's Facing America's Trash (1989), as well as minor funding for recycling and source reduction projects.

EPA regulates solid waste management under the Resource Conservation and Recovery Act (RCRA). Federal regulations require states to adopt solid waste management regulations and state solid waste management plans that cover solid, hazardous, and other wastes. Requirements include:

- provision for implementation;
- provision for environmentally sound waste management disposal, including resource conservation or recovery;
- prohibition of new open dumps and provision for closing or upgrading of existing open dumps, including where necessary, a schedule for compliance and remedial actions;
- allowing local government to contract for solid waste resource recovery facilities; and
- a policy and strategy for encouragement of resource recovery and conservation activities.

The Environmental Protection Agency (EPA) has delegated its RCRA responsibilities in Rhode Island to DEM and provides funds for RCRA activities. The state's program must conform to federal guidelines although it may widen the scope of coverage or require more stringent regulation.

4-3 STATE AGENCY RESPONSIBILITIES FOR WASTE MANAGEMENT

In contrast to most other states, Rhode Island state government agencies not only regulate solid and hazardous waste management, but also provide recycling and disposal facilities for municipal and commercial solid waste as well. In many other states, regulation is dispersed throughout state, county, and municipal government agencies and facilities are provided by local, county or regional agencies (commonly solid waste authorities) or the private sector. However, in Rhode Island, the small size of the state, the dominance of the central metropolitan area, and the minimal level of regional

or county government have contributed to centralization of these functions at the state level.

In Rhode Island, most major waste management functions are vested in two agencies: the Solid Waste Management Corporation and the Department of Environmental Management. The Corporation's major responsibility is developing and operating facilities and programs for solid waste management, while DEM is mainly responsible for regulating solid and hazardous waste management facilities and recycling activities. However, both agencies have other responsibilities, including planning, public education, technical assistance, and funding.

The role of the Corporation in regulation has expanded to include solid waste flow control and policies for use of its facilities. The Corporation has taken an active role in such programs as source reduction, recycling and management of wastewater treatment plant sludge.

DEM's role includes regulation, planning, development, and administration of waste management programs such as municipal, commercial and state agency recycling and source reduction and recycling market development.

Recent legislation includes widely different approaches to allocating responsibilities for waste management. On the one hand, implementation of recycling, flow control, and municipal tipping fee subsidy programs mandated by the 1986 Solid Waste Act Amendments require a high level of coordination among DEM, the Corporation, the Department of Administration, and the municipalities. On the other hand, facility siting under the Rhode Island Hazardous Waste Facility Siting Act of 1982 requires little state agency involvement. Instead, it establishes a process and guidelines for direct negotiations between the developer and the host municipality.

In addition, the State is implementing a broad, mandatory recycling program for solid waste. Rhode Island's institutional framework for regulating and providing facilities and programs for solid waste management is still evolving as the agencies concerned respond to economic changes, new laws, and initiatives by other agencies and levels of government.

The following sections summarize waste management responsibilities for the Solid Waste Management Corporation, the Departments of Environmental Management, Administration, Health, the Economic Development Corporation and the Environmental Standards Board.

4-3-1 Rhode Island Solid Waste Management Corporation

The Rhode Island Solid Waste Management Corporation, a quasi-state agency, is charged with development of "an integrated statewide system of solid waste management facilities" [RIGL §23-19-4(b)], including recycling facilities. Facilities are funded through revenue bonds. The Corporation plans, owns and operates solid waste management facilities and plans and implements commercial and municipal recycling and source reduction programs.

The Corporation is governed by a nine-person Board of Commissioners which is established by Section 23-19-6 of the Rhode Island General Laws. The members serve staggered three-year terms. Six members of the Board are appointed by the Governor and one of the six must be the elected chief executive of a municipality. Two members of the State House of Representatives appointed by the Speaker of the House sit on the Board, as does one State Senator appointed by the Senate Majority Leader.

The Chairman, who is appointed by the Governor from among the nine, is the Chief Executive Officer of the Corporation.

The Board of Commissioners, as the Corporation's governing body, establishes policy and approves all major contracts, projects, facilities and programs. The Board of Commissioners, of course, approves the Corporation's annual budget and Five-Year Capital Program.

a. Facilities

The major feature of Rhode Island solid waste management is the Solid Waste Management Corporation's waste management system. This consists of the State Landfill and the Materials Recycling Facility, both located in the Town of Johnston.

Table 171-4 (1)

EVOLUTION OF CURRENT ARRANGEMENT

- 1968 • Environmental regulatory authority transferred to the state Department of Health; local boards of health eliminated;
 - State regulations for solid waste facilities adopted including the prohibition of open burning.
- 1974 • Rhode Island Solid Waste Corporation established to provide facilities and services;
 - Corporation contracted for use of the state's major landfill (previously Silvestri Landfill);
 - Corporation initiated efforts to develop resource recovery facilities;
- 1975 • DEM regulations adopted requiring that solid waste management facilities be licensed by the state;
- 1978 • Broad state (DEM) authority for hazardous waste regulation established;
- 1981 • Corporation purchased the Central Landfill (formerly Silvestri);
- 1982 • Mechanism for negotiating siting hazardous waste facilities established;
- 1984 • DEM Litter Control and Recycling Act established.
- 1986 • Solid Waste Act amended to include: flow control, state-subsidized municipal disposal, mandatory municipal, commercial, and state agency solid waste recycling;
- 1987 • Establishment of statutory priorities for integrated solid waste management;
 - Municipal recycling began;
- 1989 • State office and municipal recycling began;
 - Legislation adopted that modified the licensing/permitting process for the development of solid waste facilities and the development of a systematic procedure;
 - Corporation also granted the power of eminent domain;
 - DEM Hard-to-Dispose Material Control and Recycling Program began;
- 1990 • System for the collection, disposal and recycling of telephone directories established in state law;
 - Legislation adopted requiring DEM to regulate conditions for use of the labels "degradable", "environmentally safe," and similar terms;
 - DEM regulations adopted setting standards to identify materials that are packaged in a source reduced manner utilizing recycled and recyclable materials;
- 1991 • Legislation adopted that sets requirements for the use of recycled content for newsprint;
- 1992 • Legislative goal of 70% recycling for new processing facilities enacted;
 - Statutory Ban on incineration adopted by General Assembly;

- 1993
 - Legislation enacted prohibiting use of certain portions of the buffer zone for Landfill expansion;
 - Commencement of operations of an 11-acre section of the Landfill with a double geo-membrane and clay liner. All disposal will henceforth be over double liners;
 - Closure of Central Landfill -- the original 121-acre unlined section of the State Landfill;
 - State Planning Council certifies a new landfill site for development by the Corporation on its property in Johnston;
- 1994
 - Corporation implements Foster Maximum Recycling Pilot Project designed to test the extent to which residents can participate in a more intensive recycling effort, the economic feasibility of recycling a much larger percent of the waste stream, and methods of reducing the costs of collecting recyclables;
 - The Corporation applies for licensure of the Southwest Landfill, an approximately 45-acre cell which abuts the existing Landfill and which would provide 6-10 years of disposal, depending on quantities disposed;
 - EPA determines that the Central Landfill has not and will not threaten the Scituate Reservoir;
 - Legislative approval required for all new bond debt;
 - The Towns of Westerly, South Kingstown and Narragansett introduce volume-based solid waste user fee systems incorporating the use of bags and/or tags;
 - Legislation is enacted requiring DEM licensure of C&D processing facilities and establishing siting, construction and operating standards for them;
 - DEM establishes newspaper recycled content regulations;
 - DEM implements project to increase the use of post-consumer materials in manufacturing processes to develop waste-based industries in Rhode Island;
 - DEM and DOA develop specifications for purchasing recycled products - conduct workshop for municipal officials to "piggyback" state bids for recycled products;
 - Many municipalities begin leaf and yard waste composting programs;
- 1995
 - Expansion of the MRF undertaken by Corporation;
 - DEM opens Household Hazardous Waste Facility on Narragansett Bay Commission property at Fields Point, Providence.
 - Corporation officially launches the Maximum Recycling Program in Foster and Scituate after successful completion of the pilot program in Foster.
This is a prelude to Maximum Recycling statewide.
 - EPA and the Corporation agree to terms of a Consent Order to be issued by EPA concerning remediation of the Central Landfill Superfund site.
- 1996
 - Expansion of the MRF and the installation of new process trains in the MRF are completed, more than doubling its processing capacity.
 - The new education center at the MRF is completed.

- Dredging of Upper Simmons Reservoir to remove silt washed into the reservoir from the Landfill by erosion completed.

The Corporation, according to RIGL §23-19-9, is to provide solid waste management services to municipalities and persons within the state by receiving solid waste at Corporation facilities. In addition, RIGL §23-19-10 (40) authorizes the Corporation to "control the transportation, storage and final disposal of all solid waste in the state other than from sources owned or operated by the federal government ...". This effectively prohibits others from engaging in activities "including disposal of solid waste" that would compete with the Corporation or conflict with the Corporation's obligations to its bondholders. The Corporation, however, may allow cities and towns "to contract among themselves" for waste disposal [RIGL §23-19-13(b)].

The Corporation provides facilities for municipal, commercial and industrial wastes and recyclables as well as wastewater treatment facility sludges, industrial liquid wastes, and construction/demolition debris.

b. Source Reduction

The Corporation also has been delegated responsibility to do source reduction [RIGL §23-19-4 (f)]. The program was initiated in late 1986 with the establishment of the Rhode Island Source Reduction Task Force, composed of representatives of local industry, academic institutions, environmental groups, and state agencies. The Corporation's source reduction activities are a cooperative effort with DEM in three categories: research, education, and legislation. These source reduction activities are discussed in greater detail in Chapter 6-2.

c. Statewide Source Separation Plan

The Corporation is also assigned the responsibility of preparing a statewide plan for separation of solid waste at the source, at collection points, or transfer stations [RIGL §23-19-10(29)].

d. System Development Plan

The Corporation prepared and adopted, after public hearing, its first Statewide Resource Recovery System Development Plan (SDP) required by §23-19-11(1) in June 1987. However, in 1992 the General Assembly banned incineration making portions of the System Development Plan obsolete. Appendix A to this Plan supersedes that document and is the Corporation's new SDP Plan. The SDP will be updated by the Corporation on an annual basis consistent with the format outlined in Appendix A.

The SDP includes waste generation rates by municipality, municipal and commercial tonnage, baseline solid waste data for the State, 20-year solid waste projections for Corporation waste management facility and program planning, and a provision for the annual assessment of the effectiveness of Corporation facilities and programs.

The SDP must be consistent with DEM regulations as well as with the State Guide Plan.

e. Comprehensive Solid Waste Management Plan

The Corporation, DEM and the State Planning Council are to cooperate in the preparation of a comprehensive solid waste management plan [RIGL §23-19 (6)]. This Plan is the result of such a cooperative effort.

f. Solid Waste Facility Siting

Siting state solid waste facilities is provided for by RIGL §23-19, which gives the Corporation broad authority to plan, acquire sites, and develop facilities.

In 1989, legislation [RIGL §23-19-10.2] established a process for the siting of solid waste disposal facilities. The

legislation requires a statewide search to identify the most environmentally appropriate site(s) for solid waste facilities. One of the law's most important features is the granting of eminent domain to the Corporation under tightly controlled and limited circumstances, i.e., only after the site to be acquired is: 1) certified as consistent with the State Guide Plan by the State Planning Council; 2) approved by a newly created Solid Waste Facilities Siting Board; and 3) approved in writing by the Governor.

g. Regulatory Authority

While the Corporation has the power to adopt rules and regulations [RIGL §23-19-10(5)], it has few regulatory responsibilities beyond its authority over disposal at its facilities. However, the ability to regulate disposal at Corporate facilities confers considerable power since most of the solid waste generated in Rhode Island is disposed of at the Corporation's facilities.

The Corporation's major regulatory authority is its statutory authorization under Rhode Island General Laws to designate facilities to be used by Rhode Island's cities and towns to dispose of municipal solid waste. As a result of litigation in U.S. District Court, the Corporation's 1991 effort to implement flow control over commercial solid waste generated in the State was declared unconstitutional. The Corporation has thus lost this authority unless a federal flow control enabling statute is enacted. In March 1995, Senator John Chafee co-sponsored federal legislation which would authorize states to exercise flow control over waste in certain circumstances; a lengthy consideration process is likely.

As part of its responsibility to manage facilities, the Corporation also establishes policy governing the types of waste accepted at its facilities and conditions under which waste will be accepted. An example is the July 1987 policy restricting disposal of certain sludges and liquids.

RIGL §23-19-13.1 prohibits disposal of out-of state waste at the Corporation's Central Landfill.

h. Financial Assistance

Financial assistance provided by the Corporation includes:

- a state-subsidized tipping fee for municipal solid waste disposal at Corporation facilities, at a rate set by statute; [RIGL §23-19-13];
- a program of funding to municipalities to offset costs for the first three years of separate collection and hauling of recyclables [RIGL §23-19-32];
- processing of recyclables at the MRF at no cost to the municipalities who bring their recyclables to that facility; and
- funding to DEM of over \$1,580,000 in state fiscal years 1987 to 1991 to offset reasonable costs for its activities in implementing the recycling program [RIGL §23-19-32]. As of state fiscal year 1992, this funding was discontinued.

4-3-2 Rhode Island Department of Environmental Management

DEM has broad authority to "supervise and control the protection, development, planning, and utilization of the natural resources of the state..." [RIGL §42-17.1-2], as well as specific responsibilities for solid waste management and recycling.

DEM is charged with regulation of solid waste facilities and recycling activities; providing technical assistance to municipalities and business; public education; and coordination of recycling and litter activities [RIGL §42-17 and 37-15].

DEM also opened a household hazardous waste facility in 1995 and provides assistance to municipalities to operate used oil collection centers.

Facility regulation is largely the function of DEM's Division of Waste Management which was established under Executive Order 80-8.

DEM's recycling regulatory, technical assistance, education and coordination programs are carried out by the Office of Environmental Coordination (OEC), established under Executive Order 83-1 to coordinate policy on issues affecting more than one division of DEM, to review Environmental Impact Statements and to review environmental plans and policies. Ocean State Cleanup and Recycling Program (OSCAR) was established within OEC by the Litter Control and Recycling Act of 1984 and expanded by the 1986 amendments to the solid waste statutes.

DEM's solid waste and recycling programs are summarized below.

a. Facilities

DEM facilities include community used motor oil facilities and a permanent household hazardous waste disposal facility scheduled to open in 1995, both operated by the OEC.

The used oil recycling program under the Rhode Island Used Oil Recycling Act [RIGL §23-19.6] consists of: collection facilities (igloos) at 38 municipal sites; public education; a requirement for oil retailers to post information about disposal sites and practices; a DEM used oil information center; and, provisions that encourage labeling. State procurement of recycled oil products is encouraged.

DEM is also required to conduct a permanent and continuous program to control and remove hard-to-dispose materials generated within the state [RIGL §37-15.1-2]. Accordingly, OEC has constructed and will operate a permanent household hazardous waste collection facility at Fields Point, Providence. Household hazardous waste such as oil-based paints, pesticides, herbicides, cleaners, acids and caustics, will be accepted at the facility from residents by appointment.

DEM has developed a registration program for Intermediate Processing Facilities. This will allow for the processing of recyclables without having to obtain a Solid Waste Facility license and will also provide the department with valuable recycling data.

b. Source Reduction

DEM participates in the Source Reduction Task Force and its activities include education and legislation, which are discussed in Chapter 6-2.

c. Statewide Source Separation Plan

The Department has a major role in the statewide source separation program which includes adopting rules and regulations for recycling activities; providing plans and technical assistance to municipalities and businesses for implementing recycling; developing programs to increase public awareness and participation in recycling; conducting research and development in the field of recycling; and, coordinating recycling and litter control activities. These programs are discussed in Chapter 6.

d. System Development Plan

DEM reviews the system development plan as part of the review process for licensing Corporation disposal facilities and ensures that the plan is consistent with DEM regulations.

e. Comprehensive Solid Waste Management Plan

DEM cooperates with the Corporation and the State Planning Council in the preparation of this Solid Waste Management

Plan, which it formally adopts after public hearing.

f. Solid Waste Facility Siting

DEM is authorized to establish minimum standards for permissible types of refuse disposal facilities, and the design and construction, operation, maintenance and location of disposal facilities [RIGL 42-17.1-2(p)]. These standards are subject to the approval of the Environmental Standards board. The Department is also authorized to issue and enforce rules, regulations and orders as necessary to carry out its duties.

g. Regulatory Authority

DEM's Division of Waste Management is responsible for adopting and administering rules and regulations for solid waste [RIGL 42-17.1-2(p)]. The Division's duties include reviewing license applications for solid waste facilities, inspecting facilities, responding to citizen complaints on solid and medical waste, and taking enforcement action when necessary. Regulations pursuant to this Chapter include:

- **Rules and Regulations for Solid Waste Management Facilities (December 1, 1982)** -- includes licensing requirements and operating standards for landfills, incinerators, transfer stations, and resource recovery facilities. February 6, 1991 amendments to these rules and regulations included two additional types of facilities -- waste tire storage and recycling facilities and petroleum-contaminated soiled processing facilities (handling only virgin petroleum and not waste oil contamination).

In April, 1992 amendments to these rules and regulations (which became effective June 18, 1992) included extensive amendments of the licensing requirements and operating standards. Further revisions are expected to be made in 1995 with respect to operating standards for operating sanitary landfills, compost facilities and construction and demolition debris processing facilities.

- **Rules and Regulations Governing the Generation, Transportation, Treatment, Management and Disposal of Regulated Medical Waste in Rhode Island** (adopted in March 1992 and further amended 1994). These rules and regulations are enforced by the Division of Waste Management's Solid Waste Section, with support from the Office of Legal Service, Office of Criminal Investigation, and the Attorney General's Office.

OEC is responsible for adopting and administering rules and regulations for recycling, according to RIGL Chapters 23-18, 23-19, 37-15, 42-17 and 42-35 et seq, as follows:

- **Municipal Recycling Regulations** (December 1, 1987) - - these regulations: define recyclables; set standards for municipal ordinances governing the separation of municipal waste into recyclable and non-recyclable components; specify compliance standards for recycling programs; and, establish procedures for financial aid to cities and towns.
- **Regulations for Reduction and Recycling of Commercial and Non-Municipal Residential Solid Waste** - - these regulations define commercial recyclables; set schedules for submitting source reduction and recycling plans; and, establish enforcement procedures for the regulations.
- **Recycling Emblem Regulations** (October, 1990) -- the purpose of these regulations is to establish standards for the use of recycling emblems, including the terms "reusable," "recyclable," "recycled content," and "recycled".
- **Rules and Regulations for Newspaper Recyclability** (September, 1994) -- these regulations establish official requirements for publications to report their use of recycled post consumer material.

The Department also has authority to adopt rules and regulations as may be necessary to require the collection and recycling of telephone directories (implementation expected in 1995), determine the recyclability of beverage containers, implement and carry out the provisions of the Toxics in Packaging Act and to establish specifications for the purchase of recycled products by the state

h. Financial Assistance

Financial assistance provided by DEM includes:

- Grants to municipalities and non-profit organizations to conduct litter/waste reduction and recycling activities; and,
- Grants to municipalities to conduct projects utilizing post-consumer rubber from used automobile tires.

The level of grant funding depends on the State Budget.

i. Other Programs

A vehicle battery disposal program also falls under the Office of Environmental Coordination's jurisdiction. RIGL §23-60 requires a \$5.00 deposit on every wet cell lead acid battery that is returned at the time of purchase or within seven days. Old batteries are returned to the manufacturer.

The Division of Water Resources "Rules and Regulations Pertaining to the Disposal and Utilization of Wastewater Treatment Facility Sludge" apply to sludge from publicly owned treatment facilities that is determined to be non-hazardous under the criteria established in the Rhode Island Hazardous Waste Generator regulations. The sludge regulations cover incineration, composting, land disposal, and land application for agricultural and silviculture.

4-3-3 Economic Development Corporation

The Economic Development Corporation (EDC) is established by Title 42, Chapter 63 of the Rhode Island General Laws which grants the EDC powers which include but are not limited to the following:

"(a) To investigate, study, and undertake ways and means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of Rhode Island business, industry and commerce, within and outside the state;

"(b) To promote and encourage the location and development of new business in the state as well as the maintenance and expansion of existing business and for that purpose to cooperate with state and local agencies and individuals both within and outside the state;

"(c) To plan and develop an effective business information service both for the direct assistance of industry of the state and for the encouragement of industries outside the state to use business facilities within the state;

"(d) To encourage research designed to further new and more extensive uses of the natural and other resources of the state and designed to develop new products and industrial processes;"

Major programs to develop remanufacturing or other waste-based industries or to develop industries which utilize the recyclables generated by the municipal or commercial recycling programs should be interagency programs involving the EDC as well as the Corporation and DEM. The EDC has a clear statutory mandate and the expertise to develop and implement programming to promote the growth of waste-based industries and the utilization of the recyclables that are generated here.

4-3-4 Other State Agencies

Certain other agencies have limited, specific responsibilities for solid waste management. These include the Department of Administration (Division of Planning, Budget Office, and Office of Purchasing), the Environmental Standards Board, and the Department of Health.

a. Department of Administration

1) Division of Planning

The Division of Planning (the Division) is responsible for preparation of the State Guide Plan and a shorter-range strategic plan. Elements of the State Guide Plan include this solid waste management plan; water resources and water quality management plans; and other plans related to the physical, social, and economic development of the state. The Division also provides planning services to the Governor and other state agencies; coordinates development decisions within the framework of state plans; maintains a planning information base; and provides services related to local planning and municipal affairs. The State Planning Council provides policy direction to the Division of Planning and approves all elements of the State Guide Plan.

The State Planning Council which is comprised of state, local, and public representatives and federal and other advisors under "the Solid Waste Facilities Permitting and Licensing Reform Bill" of 1989 is charged with certifying as consistent with the State Guide Plan all sites to be acquired under the eminent domain provisions of this legislation by the Corporation for operation of solid waste disposal facility.

By statute [RIGL §23-18.9-9.1(d)], the State Planning Council has the power to designate areas where solid waste management facilities are prohibited. This is in addition to the legislative prohibitions outlined in RIGL §23-18.9-9.1 (b) and (c).

2) Office of State Purchasing

The Office of State Purchasing is charged with purchasing supplies made from recycled materials as well as reviewing state procurement specifications, and adopting regulations for purchasing recycled products.

3) Budget Office

The Department, through its Budget Office, must also approve costs to be offset by the State for the implementation of municipal collection and hauling of recyclables and other solid waste management programs.

4) Solid Waste Facilities Siting Board

The Solid Waste Facilities Siting Board was created in 1989 as a part of the Department of Administration. The members, who are appointed by the Governor, include the Governor's legal counsel, the Director of the Department of Administration, a business or industry representative, a member of the RI League of Cities and Towns, and an environmental advocate. The Siting Board is charged with advising the Governor on the need of the Solid Waste Management Corporation to acquire, by eminent domain, land or the interest therein for the operation of a solid waste disposal facility.

b. Environmental Standards Board

The Environmental Standards Board, consisting of the Directors of the Departments of Administration (as chair), Health, and Environmental Management (or designees), is charged with establishing standards of environmental quality for certain programs and integrating activities in areas of joint department interest.

Standards within their jurisdiction include those of DEM for refuse disposal facilities as well as those for air and water quality.

c. Department of Health

The Department of Health regulates management of infectious wastes from hospitals and laboratories.

4-4 THE TOWN OF JOHNSTON

In April 1996, the Corporation and the Town of Johnston ratified an historic host community agreement which effectively ended 15 years of squabbling and litigation between the Corporation and the Town. Under the agreement, the Corporation will pay the Town annually a base payment of \$1.5 million; 3.5 percent of the Corporation's previous fiscal year's gross revenues; free tipping for Johnston residents and methane royalty payments. In the first full year of the agreement, FY'1997, these payments total more than \$3.2 million and are expected to exceed \$3.2 million annually thereafter because there are escalators built into the payments. The host community agreement provided for several other financial settlements and also settled a number of major policy issues that had strained relations between the Town and the Corporation for more than a decade. Some of the highlights of the host community agreement are as follows:

The Corporation will not seek landfill expansion to the north or west of existing operations. Landfill expansions to the South of existing operations are specifically approved, including Landfill Phases IV and V. Moreover, the Town has agreed to cooperate with the Corporation and assist it in obtaining licenses and permits for Landfill Phases IV and V, which are addressed in detail in Section 6 of this Plan. Landfill expansion to the East of existing operations is specifically and purposively left an open question. Furthermore, the Town agreed to dismiss all litigation against the State, the DEM and the Corporation relating to the Landfill and also agreed not to bring litigation of any kind against the Corporation pertaining to the use of Landfill Phases II, III, IV and V. The Town and the Corporation agree to cooperate on a wide variety of programs relating to the operation and maintenance of the Corporation's facilities and properties. One of the projects on which the Corporation and the Town will cooperate on is the development of an industrial park on approximately 200 acres of land owned by the Corporation as shown on Figure 171-6(1).

4-5 LOCAL GOVERNMENTS

4-5-1 Solid Waste Management

Cities and towns, once the major providers and regulators of local solid waste disposal, continue to have an important but far more limited role in providing solid waste disposal service and in regulating private solid waste service providers. However, in some respects, particularly separation and collection of recyclables and directing the flow of locally generated solid waste, their responsibilities have expanded.

a. Providing for Disposal

Under the Refuse Disposal Act of 1968, cities and towns were responsible for providing for disposal of all refuse, including commercial and industrial, generated within their boundaries. At that time, most met the disposal requirement with local landfills; some used private landfills.

Municipalities have generally assumed a larger role in disposal of municipal (largely residential) garbage and refuse, often providing collection and underwriting disposal costs, than in disposal of other solid wastes.

With the establishment of the Solid Waste Management Corporation in 1974 and its blanket disposal contract for low cost disposal of municipal refuse, the municipal role narrowed and responsibility for refuse disposal shifted to the State. This shift was accelerated when the Corporation purchased the Central Landfill in Johnston. The Corporation was also given a limited form of flow control in its authority to control the location of out-of-town disposal.

The 1986 amendment to the Solid Waste statutes further limited municipal responsibility for disposal by excluding those wastes not acceptable at a Corporation facility, as well as hazardous wastes. Collection responsibilities of municipalities were broadened, however, to cover separate collection of recyclables.

Cities and towns must ensure that municipal solid waste is disposed at an existing local landfill or source separated and delivered to a Corporation facility, or delivered to a Corporation-designated disposal facility. To meet the responsibility, most provide collection publicly or by contract. In some communities, individual residents hire private haulers to collect their solid waste and transport it to a state-approved facility.

b. Regulation

In 1975, the State assumed responsibility for licensing solid waste management facilities. In 1986, the scope of municipal regulations was reduced to licensing local collectors, haulers and operators of transfer stations [RIGL §23-18.9-1 (b) (1)]. Under the 1968 Refuse Disposal Act cities and towns were required to regulate collection, hauling, and disposal.

The 1986 legislation established requirements for the adoption of local regulations for:

- the fair allocation of the subsidized municipal tipping fee among privately contracted collectors of municipal refuse [RIGL §23-18.9-1(b)(3)]; and
- the separation of solid waste into recyclable and nonrecyclable components [RIGL §23-18.9-1(b)(4)].

c. Financing

Since 1986, municipal tipping fees have been established by State law and since 1992, it has been annually set at \$32.00 per ton.

Municipalities tip recycled materials free of charge at Corporation facilities, and the Corporation finances the first three years of each municipality's recycling program.

Municipal solid waste costs are financed by local general revenues, largely the property tax. Five communities, however, have implemented user fee programs to pay for the cost of solid waste.

4-6 STATE ADVISORY COMMITTEES

Advisory groups have played an important role in State waste management decisions in Rhode Island in recent years. They augment staff capacity and help identify and resolve issues. How they are constituted, their longevity, and their level of participation varies widely. Some are statutory and self convened, others are set up on an informal basis and convene at the call of the agency they advise. Some are established by interagency arrangement, some have specific missions and work programs, others do not.

The following describe the Committees that have continuing functions.

4-6-1 Citizen Advisory Board (SWMC)

The Citizen Advisory Board was established by the same legislation that set up the Corporation. Its statutory role is to advise the Corporation on ways it can improve the management of solid waste in Rhode Island and report its findings to the Governor annually. By mutual agreement between the Corporation and Advisory Board members, this board was

allowed to become inactive because of the increasingly technical nature of the Corporation's work. It remains inactive.

4-6-2 Hard-to-Dispose Material Control and Recycling Oversight Commission

The Hard-to-Dispose Material Control and Recycling Oversight Commission was established by RI Public Law 89-514 in 1989 to: review tax revenues collected by and expenditures of the Hard-to-Dispose Material Control and Recycling Program developed and administered by the Department of Environmental Management; evaluate the effectiveness of the program; and make recommendations to the Governor and the General Assembly regarding the appropriateness of the taxation rates on lubricating oils (\$0.05 per quart or \$0.053 per liter), antifreeze (\$0.10 per gallon or \$0.0264 per liter, organic solvents (\$.0025 per gallon or \$.00066 per liter), tires (\$.50 per tire) and new motor vehicles (\$3.00 per vehicle) [RIGL §44-44-3.7] and the timetable for the establishment of state owned and operated regional collection centers. The Commission has oversight of DEM facilities, grants and loan programs, and funding as outlined in RIGL §37-15.1-6.

The Commission consists of nine members: five appointed from the Rhode Island General Assembly (three from the House and two from the Senate), one industry representative, one representative from an environmental group, and two public members.

4-6-3 Source Reduction Task Force

The Corporation and DEM have agreed, as part of a broader agreement between the two agencies, that the Corporation shall, in 1986, reactivate the Source Reduction Task Force

which was established in 1986 and operated for several years before becoming inactive.

The Task Force will be reestablished -- as it was originally -- as an inter-agency, inter-sectoral working group providing advice from time to time to the Corporation concerning the development and implementation of source reduction programming.

4-6-4 Other Advisory Bodies

In addition to these two legislatively created advisory bodies, the Corporation and DEM have established advisory bodies to assist in the development of: the System Development Plan, Sludge Management Alternatives, Recycling Regulations and this Comprehensive Plan.

4-7 PRIVATE SECTOR ROLE

As governments have assumed more responsibility over waste management, the private role has changed. However, private arrangements continue to predominate in collection, hauling and recycling commercial/industrial solid waste, and in handling hazardous waste.

4-7-1 Management of Commercial/Industrial Solid Waste

Until passage of the 1986 amendments to the Solid Waste statutes, management of commercial/industrial non-hazardous solid waste was largely left to the private sector, with the exception of permitting facilities and setting operations standards. Disposers (more often waste haulers rather than generators) chose which facilities to use. While the Corporation was required to provide facilities, businesses were free to choose which to use. Recycling arrangements were made by generators or haulers.

Since 1986, the Corporation has been empowered to control transportation, storage and disposal of solid waste in Rhode Island, including final disposal of all solid waste at Corporation facilities. Flow Control has been challenged in the federal courts as discussed earlier in section 4-3-1 g. The law also requires commercial and industrial firms using Corporation disposal facilities to recycle.

4-8 ENVIRONMENTAL PROTECTION REGULATION

Federal, state, and local environmental protection regulations have influenced solid and hazardous waste management decisions from design of laws to selection of technologies. Federal pollution control laws, most notably the Clean Water Act and the Clean Air Act, established regulatory approaches (permit requirements, analytical techniques, etc.) and minimum standards. In many cases, these or more stringent versions are adopted and administered by the State.

In Rhode Island, most of these regulations - wetlands, air pollution control, water quality, coastal management - are administered at the state level by either the Department of Environmental Management or the Coastal Resources Management Council. Drinking water quality is regulated by the state Department of Health. In addition, a major new groundwater classification program being developed by DEM may include provisions for waste management facilities.

Beyond an authorization to prohibit location of solid or hazardous waste facilities over drinking water aquifers, local governments have little specific authority for, or systematic participation in, environmental regulation in Rhode Island. However, cities and towns have been able to use local development controls, particularly zoning and subdivision ordinances, to deal with environmental concerns.

